

**REMARKS/ARGUMENTS**

This Amendment is submitted in response to the Final Office Action mailed October 23, 2009. Claims 4-8, 41-45, 80 and 81 were pending. In the Office Action:

1. Claims 4, 41 and 80 were rejected under 35 U.S.C. § 101, non-statutory subject matter rejection;
2. Claims 4 and 80 were rejected under 35 U.S.C. § 112 as being indefinite;
3. Claims 4-8, 41-45, 80 and 81 were rejected under 35 U.S.C. § 103(a) as being obvious over U.S. Patent Publication No. 2002/0013729 to Kida, *et al.*, (the “Kida application”), in view of U.S. Patent Publication No. 2003/0208560 to Inoue, *et al.* (the “Inoue application”), and further in view of U.S. Patent Publication No. 2002/0065977 to Kindo, *et al.*, (the “Kindo patent”).

With this amendment, Claims 4 and 80 have been amended to address the Rejection under § 112, and Claims 4, 41, and 80 have been amended to address the Rejection under § 101. It is believed that the amendments to the claims and the remarks provided below address the remaining rejections. **Claims 4-8, 41-45, and 80-81 are now pending.**

**Support for Claim Amendments.**

The claims have been amended to recite “an advertisement distribution system” in place of an information distribution system.

Also, the preambles of Claims 4 and 41 have been amended to focus on the relation of connection so as to further distinguish the core processing equipment (*e.g.*, Advertisement Insertion system 7 and Advertisement Material Distribution Server 1) from associated peripheral hardware (*e.g.*, viewer terminal 2, Program video server 3, and so on).

In addition, the limitation of “a linked distribution of the advertisement material” in the paragraph starting with “an advertisement material distribution server” in Claim 4, and the paragraph starting with “sequentially and selectively reading a corresponding advertisement material” in Claim 41 has been revised to read as follows: “so as to be inserted into the video content distributed from the video content distribution” with particular emphasis on being the

action of “distributing the corresponding advertisement via the information network to a demand terminal which has made a request.”.

Supports for these amendments are found in the original English specification, specifically at page 41, line 2, through to page 43, line 11, and in Figures 1 and 2. No new matter has been added by the amendments to the claims.

#### **Claim Rejections Under 35 U.S.C. §101**

Independent Claims 4, 41 and 80 were rejected under 35 U.S.C. § 101, non-statutory subject matter rejection; Independent Claim 81 was not rejected under 35 U.S.C. § 101. Claims 4, 41, and 80 have been amended to follow the language of Claim 81 by reciting the feature of “distributing the corresponding advertisement via the information network to a demand terminal which has made a request.” Support for these amendments is provided, *inter alia*, by independent Claim 81. It is respectfully submitted that the amended language further demonstrates that Claim 4, 41, 80, and their dependent claims, are directed to real-world, practical applications that provide useful, concrete, and tangible results. It is also respectfully submitted that the pending claims comply with the Office’s new interim examination instructions for patent subject matter eligibility, issued in a memorandum dated August 24, 2009, by Andrew H. Hirshfeld. Accordingly, withdrawal of the Rejection under 35 U.S.C. § 101 is respectfully requested.

#### **Claim Rejections Under 35 U.S.C. §112**

Claims 4 and 80 were rejected under 35 U.S.C. § 112 as being indefinite. With this Amendment, the word "selection" from the phrase “a means for random extraction, which performs selection and random extraction,” which should render the Rejection moot. Withdrawal of the Rejection is respectfully requested.

**Claim Rejections Under 35 U.S.C. §103**

Claims 4-8, 41-45, 80 and 81 were rejected under 35 U.S.C. § 103(a) as being obvious over the Kida application, in view of the Inoue application, and further in view of Kindo patent. Claims 4, 41, 80, and 81 are the independent claims of the rejected set. The Rejection is respectfully traversed for the reasons provided below.

*Inter alia*, the cited references fail to disclose, either alone or in combination, “a means for handicap application, based on the information about specification of increasing or decreasing, which, when performing random extractions, applies a handicap each time to the remaining number of distributions of each advertisement comprised by each advertising list, so that the mean extraction probability is maintained over the time period, while causing a deviation in the extraction probability distribution between each advertising list at each random extraction,” as recited by rejected Claim 4. At the top of page 8 of the Office Action, the Rejection states that paragraph [0153] of the Kida application teaches this feature. However, this part of the Kida patent describes Kida’s software that presents the configuration screen shown in Kida’s FIG. 9 to a future viewer of advertisements (called a “user” by Kida). Part **D204** of this configuration screen allows the user to select the categories of advertisements that the user would like to receive by checking or un-checking the boxes next to the advertisement categories. This configuration screen is presented to the viewer/user before advertisements are ever presented to the viewer/user by Kida’s system. Accordingly, Kida’s step **205** described at paragraph [0153] does not occur during “when performing random extractions” of advertisements for the distribution of the advertisement to viewers (as recited by the means for handicap application of the claim).

Moreover, Kida’s screen part **D204** and step **205** do not pertain to “information about specification of increasing or decreasing”, as proffered by the Rejection. This information is defined earlier in the third paragraph of Claim 4, and pertains to the desired number of reproductions for an Advertiser’s advertisement with respect to each minimum unit category and time period. Kida’s screen part **D204** and step **205** only pertain to a viewer’s general preference of advertisement categories, not to the amount or rate at which advertisements are distributed. If

a viewer of Kida's system chooses to not view a category of advertisements, Kida's system will distribute advertisements in that category to other viewers, thus keeping the number of distributions of advertisements to a preset distribution amount and a preset distribution rate, without consideration to a particular selection made at Kida's screen part **D204** and step **205**. Likewise, if a viewer chooses to select a category of advertisements, Kida's system will distribute advertisements in that category to that viewer and other viewers that have selected that category in a proportion that keeps the number of distributions of advertisements to a preset distribution amount and a preset distribution rate. As such, Kida's screen part **D204** and step **205** do not pertain to the rate at which a particular advertisement is distributed from the system, and as such cannot relate to specifying an increased rate or decreased rate of distribution, as proffered by the Rejection. For the above reasons, Kida's screen part **D204** and step **205** cannot apply "a handicap each time to the remaining number of distributions of each advertisement comprised by each advertising list," as proffered by the Rejection.

As to advertisement distribution, the Kida application only discloses that an advertisement schedule means sorts an advertisement list in display priority order after calculating a display priority of each advertisement (See paragraphs [0340]-[0341]). The Kida application fails to disclose not only a "means for random extraction", but "a means for handicap application" which causes a deviation in the extraction probability distribution at each random extraction, so as to select an advertisement corresponding to each viewer.

The Inoue application only discloses that the computer repeats adjusting the level of the retrieval parameter, until the number of extracted records is equal to or larger than the value of "Maximum Number of Advertisement Data Items," before the random shuffling process is carried out to use the selected advertisements equally (See paragraphs [0165]-[0166] of the Inoue application). Thus, there is no concept of handicapping in the Inoue application. As a disadvantage of the Inoue systems, since some of advertisements are supposed to be rarely matched with average user's interests, the computer has extremely few opportunities to select such advertisements. As a result, the systems disclosed by the Inoue application are very unlikely to achieve all the numbers of issued ads requested by advertisers within the planning

time period in a system administrator's enthusiasm to avoid failing to "distribute advertisements that are in accord with users' interests," which is the primary goal of the Kida system (See paragraph [0427] of the Kida patent).

The Kindo patent only discloses that "using the positive signal SY and negative signal SN, necessity calculating section **308** calculates a necessity signal N according to an equation of  $N=SY-C \cdot SN$  ... . The coefficient C is used to separate the newspaper information into pieces of information that interested the client and pieces of the information hated by the client, and provided from determination parameter storage section **310**." (See paragraph [0093] of the Kindo patent). The Kindo patent also only discloses: "[i]n distribution information storage section **808** are arranged and stored the advertising information pieces in descending order of a value of necessity signal N. Distribution information output control section **809** transfers the advertising information pieces ranked and stored in distribution information storage section **808** to client **103** through distribution output terminal **810**." (See paragraph [0094].)

Accordingly, none of cited references discloses, alone or in combination, "a means for handicap application, based on the information about specification of increasing or decreasing, which, when performing random extractions, applies a handicap each time to the remaining number of distributions of each advertisement comprised by each advertising list, so that the mean extraction probability is maintained over the time period, while causing a deviation in the extraction probability distribution between each advertising list at each random extraction," as recited by Claim 4. Because each reference fails to disclose, teach, or suggest at least one element of the claim, the Rejection cannot be sustained, and should be withdrawn. Action to that end is respectfully requested.

Similar to Claim 4, rejected Claim 80 recites "a means for handicap application, which, when performing random extractions, applies a handicap, based on information about specification of increasing or decreasing, each time to the remaining number of distributions of each advertisement material comprised by the advertising list, so that the mean extraction probability is maintained over the time period, while causing deviation in the extraction probability distribution between each advertising list at each random extraction." This feature is

not disclosed by the cited references, either alone or in combination, for the same reasons as provided above. Accordingly, the Rejection of Claim 80 cannot be sustained, and should be withdrawn. Action to that end is respectfully requested.

Rejected Claim 41 recites “a applying handicap, wherein a handicap is applied, based on the information about specification of increasing or decreasing, each time of random extractions to the remaining number of distributions of each advertisement comprised by each advertising list, so that the mean extraction probability is maintained over the time period, while causing a deviation in the extraction probability distribution between each advertising list at each random extraction.” As is clear from Applicants arguments for the patentability of Claim 4, the features of this action are not disclosed by the cited references, either alone or in combination, for the same reasons as provided above. Accordingly, the Rejection of Claim 41 cannot be sustained, and should be withdrawn. Action to that end is respectfully requested.

Rejected Claim 81 recites “applying handicap, wherein, when performing random extractions, a handicap is applied, based on information about specification of increasing or decreasing, each time to the remaining number of distributions of each advertisement material comprised by the advertising list, so that the mean extraction probability is maintained over the time period, while causing deviation in the extraction probability distribution between each advertising list at each random extraction.” As is clear from Applicants arguments for the patentability of Claim 4, the features of this action are not disclosed by the cited references, either alone or in combination, for the same reasons as provided above. Accordingly, the Rejection of Claim 81 cannot be sustained, and should be withdrawn. Action to that end is respectfully requested.

Further reasons for the patentability of Claims 4, 41, 80, and 81.

Applicants respectfully submit that a modification of the Kida system with the random shuffling process of Inoue, as proffered by the Rejection, would render the Kida system unsatisfactory for its intended purpose, and for this reason the proffered combination of references does not render the independent Claims 4, 41, 80, and 81 obvious according to the

standards set forth in **M.P.E.P. §2143.01 (V)** (“The Proposed Modification Cannot Render The Prior Art Unsatisfactory For Its Intended Purpose”). This is because the introduction of the random Inoue’s shuffling process into the sorting process executed by the advertisement schedule means disclosed by Kida would ruin the intended purpose of the Kida system, which is to “enable[s-~~t~~o] this invention to distribute advertisements that are in accord with users' interests” (See paragraph [0427] of the Kida patent).

Moreover, the Kindo patent only discloses a sorting subroutine to which a single parameter, *i.e.*, a “necessity signal N”, is passed to an equation having the “coefficient C” (corresponding to a kind of “weight”). Therefore, this data processing of Kindo cannot exceed so-called “simple sorting.” Accordingly, Applicants respectfully submit that since “sorting” and “random extraction” do not go together in principal, it would not be obvious to one of ordinary skill in the art to apply Kindo to Inoue or Kida. Applicants further respectfully submit that such a combination would be doomed to fail, contrary to the expectation of the Rejection.

In addition, Applicants respectfully submit that “simple sorting” would not be useful in ensuring total numbers of advertising regarding each advertisement and the maintenance of the requested distribution of extraction probabilities at all.

Each of Claims 5-8 and 42-45 is dependent upon one of independent Claims 4 and 41, and therefore includes the distinguishing features of its respective independent claim. Accordingly, the dependent claims rejected under 35 U.S.C. § 103 are allowable for at least the same reasons as provided above.

Additional reasons for the patentability of Claims 4-8, 41-45, 80, and 81 exist, and Applicants reserve, without prejudice, the right to provide these reasons at a later date.

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Amdt. dated January 25, 2010  
Amendment under 37 CFR 1.116 Expedited Procedure  
Examining Group 2446

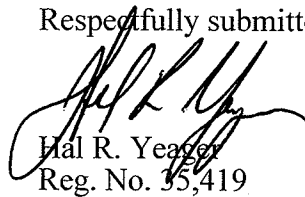
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**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 415-576-0200.

Respectfully submitted,



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